

BEFORE THE HEARING PANEL

**IN THE
MATTER OF**

**The Resource Management Act
1991 (the Act)**

AND

**IN THE
MATTER OF**

**Proposed Plan Change 9 to the
Operative Hamilton City Council
District Plan**

**STATEMENT OF EVIDENCE OF CAROLYN ANNE MCALLEY ON BEHALF OF
HERITAGE NEW ZEALAND POUHERE TAONGA**

Planning-Archaeological Sites

22 September 2023

INTRODUCTION

1. My name is Carolyn Anne McAlley. I hold the qualification of a Bachelor of Planning degree (1993) from Auckland University. Since graduation I have consistently worked in both local and regional government, in consenting, policy implementation and policy-based roles.
2. I am currently employed as a heritage planner at Heritage New Zealand Pouhere Taonga (HNZPT). I have been in this role since 2012, and the majority of my work is providing statutory planning advice in relation to proposals under the Resource Management Act, including District Plans, Plan Changes and Resource Consent proposals.
3. Although this evidence is not prepared for an Environment Court hearing I have read the Environment Court Code of Conduct for Expert Witnesses Practice Note 2023 and have complied with it when preparing this evidence. I confirm that the topics and opinions addressed in this statement are within my area of expertise. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions that I have expressed.

SCOPE OF EVIDENCE

4. HNZPT made a submission on Proposed Plan Change 9 to the Operative Hamilton City Council District Plan (PC9). I was involved in preparing the original submission on PC9 and also the further submission.
5. HNZPT also made a further submission to the summary of submissions, with a particular focus on the retention of the proposed HHA's and the related the objectives, policies, and rules.
6. I have been asked by HNZPT to assist by providing planning evidence on PC9.
7. In preparing this evidence I have read the relevant submissions, further submissions, and the Section 42A reports prepared by Council staff and/or consultants. With regard to certain topics, I rely on the expert evidence prepared by Ms. Eleanor Sturrock.

8. The scope of my evidence covers:

- Definitions for Archaeological and Cultural Sites categories and related matters, and
- Policies 19.2.1b, Policy 19.2.2a, Policy 19.2.2b, Policy 19.2.6g, and
- Rules 19.3.3a, 19.3.3.d, proposed new Rule 19.3.3f, and
- Explanation notes below Rule 19.3.3 and Rule 19.4.2a, and
- Heritage Alert Layer.

THE IMPORTANCE OF HISTORIC HERITAGE

Heritage New Zealand Pouhere Taonga

9. HNZPT is New Zealand’s lead heritage agency and operates under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). Included as the purpose of the HNZPTA is: “To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.” HNZPT meets this purpose in several ways, including advocacy and active involvement in Resource Management Act 1991 (RMA) processes for heritage.

Historic Heritage

10. Section 6(f) of the RMA requires that any proposal “recognise and provide for... the protection of historic heritage from inappropriate subdivision use and development”.

11. In terms of Part 2 RMA matters, historic heritage is part of the environment. Therefore, adverse effects on historic heritage must be avoided, remedied, or mitigated (as required by section 5).

Definitions for Archaeological and Cultural Sites categories and related matters.

12. HNZPT made a number of submission points¹ directly related to selected inventory forms, raising multiple concerns, which included concerns regarding the allocation of various sites to either Group 1 or Group 2.

¹ 151.39, 151.40, 151.41, 151.42, 151.43, 151.44, 151.45, 151.46, 151.47, 151.48

13. I defer to the evidence of my colleague Ms Sturrock with regard to her expert opinion as an archaeologist in respect of the classification into the three groupings.

14. There is however, in my view, an unintended consequence due to the combining of the consideration of archaeological and cultural values has resulted in some of the sites being assessed as having low archaeological values and high cultural values. As a result of this there are some sites within the Group 1 Schedule that would require an archaeological assessment as triggered by the assessment criteria “m” under E-Heritage Values and Special Character-General, of the Plan;

14.1. *“Has an assessment of the site undertaken by a person qualified in archaeology, which identifies the location of the archaeological site and the proposal is in accordance with the recommendations of that assessment for the management of the archaeological site.”²*

15. However, the inventory form assessment by Mr Cable would show low archaeological values, would suggest that the archaeological values would not warrant an assessment of a proposal’s effects in relation to the same values.

16. In the interests of ensuring that potential applicants are not undertaking any unnecessary assessments, I would suggest that Mr Ryan and Mr Cable consider if there is a way that sites of low archaeological values and not needing an archaeological assessment could be identified and exempt as part of the proposed rule framework.

17. This should not in any way negate the need for a cultural assessment for such a site.

Policies

Policy 19.2.1b

18. The HNZPT submission point (151.9) sought the retention of this policy as part of the suite of overview historic heritage policies. I accept the recommendations of the reporting planner with regard the recommended changes to the policy, in that it has the same intent.

² Notification version-Plan Change 9-Natural Environment and Heritage, Section 1.3 Assessment Criteria, Page 19 of 56.

Policy 19.2.2a

19. With regard Policy 19.2.2a, I am supportive of the amendment, in response to the HNZPT submission point (151.12) to use the word “*shall*” as follows;

19.1. “Items of significant heritage values ~~will~~shall be scheduled.”

Policy 19.2.2b

20. While I consider that this policy should have been discussed in the built heritage topic, I will make a response as follows. The HNZPT submission point (151.11) sought the retention of this generic historic heritage policy as notified.

21. Other submitters have raised concerns regarding the use of the term “*avoid*” within the policy. While I prefer the original policy, I am supportive of the reporting planners’ approach in terms of the recommended amended policy as in my view, it is important that an aspiration of avoiding the loss heritage values is clearly established in relation to works or development:

21.1. “Where the loss of heritage values associated with scheduled items cannot be avoided, minimise the loss as far as practicable.”

Policy 19.2.6g

22. HNZPT opposed (151.27) changes sought to policy 19.2.6g as it contained the words “*minor works*” and only part of the associated definition. I consider that the proposed format could cause confusion for Plan users and inadvertent damage to archaeological sites. In response the reporting planner has recommended³ an amendment to policy 19.2.6g, and a revision of the definition of minor works. Based on advice from Ms Sturrock, I concur with the recommended changes as they make the definition more concise and reduce the chances of inadvertent damage to archaeological and cultural sites.

³ Statement of Evidence of Paul Stanley Ryan (Planning-Archaeological Sites) dated 1 September 2023, pages 27-28.

Explanation below Objective 19.2.6 and associated Policies

23. I welcome the addition proposed⁴ in the reporting planners' evidence of an additional paragraph in the Explanation section below Objective 19.2.6, advising that the Plan only includes sites from the NZAA database up to a certain date. This recommended addition provides important direction and clarification for those undertaking works, and explains that they may have obligations under the HNZPTA 2014.

Rules

Rule 19.3.3 a/ Archaeological site A180

24. The Wise Charitable Trust submission sought the amendment of Rule 19.3.3 a, or in the alternative the deletion of Archaeological site A180. HNZPT was a further submitter to this submission. In response, the council has reviewed this archaeological site, the extent is recommended to be adjusted and the site to be part of schedule 8AC.

25. I am supportive of this amendment, however, consider that a further amendment is required. In my view, this would ensure that users of the Plan, who own scheduled heritage buildings, do not read the proposed rule and consider that a permitted exemption is being provided for Demolition, alterations and additions for what may be a heritage scheduled building. Therefore, I seek that the following amendment is made to the recommendation at page 38, as follows;

19.3.3 "Archaeological and Cultural Sites

9. Demolition, alterations, and additions to an existing building or structure constructed after 1900 on a Schedule 8C site that does not involve earthworks, except when the rules related to Buildings on Schedule 8A Built Heritage (building or structures) apply."

Proposed Additional Rule 19.3.3. (f)

26. HNZPT opposed a submission of Wel Networks seeking a new permitted activity rule for various network utilities activities in archaeological sites. Ms. Sturrock advises me that she is aware of instances where archaeological sites have been affected by the type of permitted activities sought by WEL Networks. Therefore, I welcome the reporting

⁴ Statement of Evidence of Paul Stanley Ryan (Planning-Archaeological Sites) dated 1 September 2023, pages 29-30.

planner's recommendation⁵ that this submission point is declined. This will ensure the retention of archaeological and cultural values.

Note 1 below Rule 19.3.3 and Rule 19.4.2.a

27. The note under Rule 19.3.3 contains advice relating to the Accidental Discovery Protocol (ADP) in the Plan, archaeological requirements/obligations under the HNZPT Act and requirements to consult iwi. With regards the information related to archaeological requirements under the HNZPT Act, HNZPT have sought the inclusion of this advice at the time of an earlier review of the District Plan. It was considered that its inclusion directly below the primary rules for the then archaeological sites was the best location to alert the Plan user of these additional obligations.

28. The reporting planner is recommending its relocation in a revised format to underneath Rule 19.4-Rules-Specific Standards, which includes rules relating to archaeological and cultural sites. I consider that this is acceptable, particularly given that the revised note includes useful information relating to the matter of the need for a HNZPT authority, that may be different from the regulatory requirements for assessment in relation to the Archaeological and Cultural site schedules categories of the Plan. In my opinion, this note provides clarity for Plan users on this aspect.

29. However, on the advice of Ms. Sturrock⁶, I do consider that an amendment is required to this Note with regard the wording around the need for an archaeological authority. An authority is required if works affect an archaeological site, and in my view, point 4 of the Note should be amended to the following:

4. ~~“An authority is required for all such activity regardless of whether the land on which the archaeological site may be present is designated, a resource consent or building permit has been granted, or the activity is permitted under the Regional or District Plan.”~~

4. “If you wish to do any work that may affect an archaeological site you must obtain an authority from Heritage New Zealand before works begin. This is the case regardless of whether the land on which the site is located is designated, or the activity is permitted under the District or Regional Plan or a resource or building consent has been granted.”

⁵ Statement of Evidence of Paul Stanley Ryan (Planning-Archaeological Sites) dated 1 September 2023, pages 37, para 163.

⁶ Statement of Evidence of Eleanor Jeneen Sturrock on behalf of Heritage New Zealand Pouhere Taonga, Archaeology, dated 22 September 2023, para 5.1.

Heritage Alert layer

30. The HNZPT submission (151.38) sought that a heritage alert layer was considered as part of the councils GIS layer, in locations where there is a high potential for archaeological remains to be found. Ms Sturrock's evidence⁷ demonstrates the need for this type of approach and also recommends⁸ that the unrecorded sites identified in the WSP report are evaluated in terms of significance so they can be appropriately scheduled. They too should be part of any associated mapping.
31. Alternatively, a heritage alert layer can be part of the District Plan maps and be used as part of the resource consent process utilising a simple associated rule framework, potentially enabling requests for archaeological assessments at the time of processing of resource consents. This is a process that as staff of the Lower Northern Office of HNZPT we have been successfully running with the Gisborne District Council for many years, which has led to the protection of archaeology in many instances.
32. Whilst I appreciate that this work is out of the scope of this plan change, however an information layer could be incorporated through a GIS and implemented in a much faster time frame, assisting with the protection of archaeology into the future.

CONCLUSION

33. The RMA requires that the protection of historic heritage should be recognised and provided for as a Matter of National Importance (Section 6(f)). As subdivision, use and development have the potential to significantly detract from cultural and archaeological values, it is important that the Plan limit the potential for adverse effects to occur.
34. In my opinion the amendments that I have described in my evidence, and also sought through the HNZPT submission and further submission, will achieve the purpose of the RMA and more specifically will recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development.

⁷ Statement of Evidence of Eleanor Jeneen Sturrock on behalf of Heritage New Zealand Pouhere Taonga, Archaeology, dated 22 September 2023, para 6.5 onwards.

⁸ Statement of Evidence of Eleanor Jeneen Sturrock on behalf of Heritage New Zealand Pouhere Taonga, Archaeology, dated 22 September 2023, para-6.4.

Carolyn McAlley

A handwritten signature in cursive script that reads "C. McAlley". The signature is written in black ink and is positioned below the printed name.

22 September 2023